

為阻嚇屢犯者所需施加的額外刑罰，我的意見如下
My views on the additional penalties necessary to deter repeat offenders are as follows — (請在適當地方加上“☑”號 Please “☑” as appropriate)

問1 在24個月內再次觸犯公眾潔淨罪行，當局應撤回定額罰款通知書，改為向法院申請判處1,500元以上的罰款 Q1 For repeat cleanliness offences committed within 24 months, the Administration should withdraw the fixed penalty notice and apply to the Court for a penalty higher than \$1,500	<input type="checkbox"/> 同意 Agree	<input type="checkbox"/> 不同意 請說明理由 Disagree Please specify reason(s)	<input type="checkbox"/> 無意見 No Comment
問2 在24個月內再次觸犯公眾潔淨罪行，當局應撤回定額罰款通知書，改為向法院申請判處社會服務令及高於1,500元的罰款 Q2 For repeat cleanliness offences committed within 24 months, the Administration should withdraw the fixed penalty notice and apply to the Court for a community service order in addition to a penalty higher than \$1,500	<input type="checkbox"/> 同意 Agree	<input type="checkbox"/> 不同意 請說明理由 Disagree Please specify reason(s)	<input type="checkbox"/> 無意見 No Comment
問3 尚有甚麼方法可加強阻嚇屢犯公眾潔淨罪行的人? Q3 What else could be done to enhance the deterrent effect on habitual cleanliness offenders?			

個人資料 Personal Particulars (可選擇是否填寫 Optional)

姓名 Name : _____
代表機構(如有的話) Organisation represented (if any) : _____
聯絡地址 Correspondence address : _____
聯絡電話 Contact phone number : _____

背景 在爆發嚴重急性呼吸系統綜合症後，政府當局已推行各種措施，改善香港的環境衛生，其中包括加強執法懲處公眾潔淨罪行。整體而言，當局執法時採取的“絕不容忍”態度，加上把定額罰款由600元提高至1,500元，已有效遏止不合衛生的行為。本港的街道現已較前清潔，而違例人數亦已減少。在二零零三年六、七、八及九月期間，我們發出的定額罰款通知書/傳票分別為3 300張、2 200張、2 200張及2 100張。

對初犯者來說，罰款1,500元已起足夠阻嚇作用，但對於屢犯不改的人卻不然，他們繼續玷污環境，危害公眾健康。自二零零二年六月引入定額罰款制度以來，在約26 100名違例人士中，有382人為重犯者，其中326人是第二次違例，其餘56人則曾三次或以上觸犯公眾潔淨法例。為對付這問題，由政務司司長擔任主席的全城清潔策劃小組已探討以下方案的可行性，以加強對陋習難改的違例人士的阻嚇力——

- 判罰社會服務令；
- 公布違例者姓名；
- 判處監禁；以及
- 留下刑事記錄。

我們的建議 經詳細考慮後，全城清潔策劃小組認為暫時不宜推行上文所列的最後三個方案。至於判罰社會服務令，小組建議訂立新的檢控方式，加重對屢犯者的刑罰——

- 向違反四項公眾潔淨罪行中任何一項的初犯者發出1,500元的定額罰款通知書；
- 倘若違例者在24個月內第二次違例，執法部門會撤回向違例者發出的定額罰款通知書，改為發出傳票，並在聆訊時向法院申請判處1,500元以上的罰款和發出社會服務令。刑罰的水平和方式將由法庭酌情決定；及

實施安排 根據現行針對公眾潔淨罪行的法例架構，執法部門可在某些情況下選擇向違例者發出法庭傳票以取代定額罰款通知書，舉例而言，提高定額罰款至1,500元的修訂法例尚未通過之前，當局一般來說向隨地吐痰的違例者發出傳票，以加強阻嚇作用。現行的定額罰款制度亦容許執法部門可在特殊情況下撤回已發出的定額罰款通知書，改為發出法庭傳票。

根據《社會服務令條例》(第378章)，凡14歲或以上的人，若被裁定犯了可判處監禁的罪行，法庭可向他們發出社會服務令，規定他們在感化主任督導下進行最多240小時的社會服務工作。判處社會服務令可兼收改過自新和彌補過錯之效。為實行第三段所載的建議，我們或需要修訂上述條例，以便法庭向屢犯潔淨罪行人士判處社會服務令。

歡迎發表意見 我們希望市民能參與決定應否施行擬議的懲處屢犯潔淨罪行人士的額外刑罰，歡迎你發表意見和建議，讓我們在籌劃未來路向時加以考慮。請花數分鐘時間填妥夾附的問卷，並於二零零三年十一月二十三日前按下列方式交回——

- 郵遞：香港中環
花園道3號
萬國寶通銀行大廈9-10樓
衛生福利及食物局
食物及環境衛生組
- 傳真：2136 3281
- 電郵：cleanliness_consultation@hwfb.gov.hk

衛生福利及食物局
二零零三年十月二十三日

擬議針對屢犯 公眾潔淨罪行人士 的新刑罰 諮詢公眾單張

Proposed New Penalties for Repeat Cleanliness Offenders Public Consultation Pamphlet

Background

As part of the wide-ranging measures to improve environmental hygiene in Hong Kong, the Administration has, since the outbreak of Severe Acute Respiratory Syndrome (SARS) earlier this year, stepped up enforcement against cleanliness offences. The “zero tolerance” enforcement approach, coupled with the increase in fixed penalty from \$600 to \$1,500, has proved effective in deterring unhygienic practices generally. Our streets are cleaner than before and the number of offenders has reduced. In June, July, August and September 2003, we issued about 3 300, 2 200, 2 200 and 2 100 fixed penalty notices/summons respectively.

While the \$1,500 penalty level is high enough for first-time offenders, this does not seem to be the case for those repeat offenders who continually soil our environment and put public health at risk. Since introduction of the fixed penalty system in June 2002, there were 382 repeat offenders out of a total of about 26 100 offenders, of which 326 were second-time offenders while 56 have broken the cleanliness law thrice or more. To tackle this problem, Team Clean chaired by the Chief Secretary for Administration has explored the feasibility of a number of options to enhance deterrence against habitual offenders, namely —

- community service orders;
- publication of names of offenders;
- imprisonment terms; and
- imposition of criminal records.

Our Proposal

After thorough deliberations, Team Clean has concluded that it would not be appropriate to take forward the last three options for the time being. As regards the

imposition of community service orders, a new prosecution scheme is recommended to stiffen the penalties for repeat offenders —

- a first-time offender of any of the four cleanliness offences would be issued a fixed penalty notice of \$1,500;
- if the offender commits a second offence within a period of 24 months, the enforcement department will withdraw the fixed penalty notice issued to the offender and replace it with a summons and, at the Court hearing, apply to the Court for a penalty higher than \$1,500 and the award of a community service order. The level and form of penalties will be left to the discretion of the Court; and
- the four cleanliness offences will be counted as one type of offence under the scheme. In other words, a person who has committed a spitting offence and a dog-fouling offence will be treated as a repeat offender for the purpose of the scheme.

Implementation

Under the present regulatory framework for cleanliness offences, enforcement departments have the discretion to issue summonses instead of fixed penalty notices under certain circumstances. For example, prior to enactment of the legislative amendment to raise the fixed penalty to \$1,500, spitting offenders were generally issued with summonses in lieu of fixed penalty notices to achieve more deterrent effect. The fixed penalty regime in force also provides an avenue for enforcement departments to withdraw fixed penalty notices issued and replace them with Court summonses when circumstances warrant such withdrawal.

We Welcome Your Views

We would like to involve members of the public in deciding whether to proceed with the proposed additional penalties for repeat cleanliness offenders. Your views and suggestions will be factored into the way forward. Please spare a few minutes to fill out the attached questionnaire and return to us before **23 November 2003** —

- **By post :**
Food and Environmental Hygiene Division
Health, Welfare and Food Bureau
9-10th Floor, Citibank Tower
3 Garden Road, Central
Hong Kong
- **By fax :** 2136 3281
- **By e-mail :** cleanliness_consultation@hwfb.gov.hk

Health, Welfare and Food Bureau
23 October 2003

NO POSTAGE
STAMP
NECESSARY IF
POSTED IN
HONG KONG
如在本港投寄
毋須貼上郵票

簡便回郵10號 FREEPOST NO.10

香港中環花園道3號
萬國寶通銀行大廈9-10樓
衛生福利及食物局
食物及環境衛生組

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